

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

FILED  
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CITY CLERK  
HENNEPIN COUNTY

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

Jeremiah Jermaine Thomas,  
  
Plaintiff,

COMPLAINT WITH  
JURY DEMAND

vs.

City of Minneapolis; and Officer Toua  
Yang, Officer Dylan Pearson, Officer Jason  
Matthew, and Officer Moshe Davis, in their  
individual and official capacities,

Court File No:

Case Type: Other

Judge:

Defendants.

### INTRODUCTION

1. This is an action for money damages brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth Amendment to the United States Constitution as well as Minnesota state law.
2. It is alleged that the Defendants used excessive force, violating Plaintiff's rights under the Fourth Amendment to the United States Constitution. It is also alleged that Defendants battered Plaintiff under Minnesota state law.

### VENUE

3. Venue is proper in this Court pursuant to Minn. Stat. §§ 542.03 and 542.09, in that this cause of action arose in Hennepin County, Minnesota.

### **PARTIES**

4. Plaintiff Jeremiah Thomas was at all material times a resident of the State of Minnesota and of full age.
5. The City of Minneapolis, Minnesota, is a municipal corporation and the public employer of the Defendant Officers.
6. Defendant Police Officers Toua Yang, Dylan Pearson, Jason Matthews, and Moshe Davis were at all times relevant to this complaint duly appointed and acting officers of the police department of the City of Minneapolis, acting under color of law, to wit, under color of the statutes, ordinances, regulations, policies, customs and usages of the State of Minnesota and/or the City of Minneapolis.

### **FACTS**

7. On September 3, 2018, Plaintiff Jeremiah Thomas was downtown Minneapolis on or around 4<sup>th</sup> Street and 1<sup>st</sup> Avenue North celebrating his birthday. While standing outside on 1<sup>st</sup> Avenue North, Mr. Thomas was involved in a brief altercation with another male subject on the sidewalk. After the altercation, Mr. Thomas ran toward his vehicle, which was parked around the block on 4<sup>th</sup> Street North.
8. Mr. Thomas was pursued on foot by Defendant Officers Yang, Pearson, Matthews, and Davis. Shortly after, Mr. Thomas surrendered to police by stopping on the sidewalk, turning around, and placing both of his hands in the air.
9. Next, without warning or provocation, while Mr. Thomas was standing on the sidewalk with this hands in the air, Defendant Officer Yang jumped into the air and drop-kicked Mr. Thomas in the chest area, causing Mr. Thomas to fall to the ground. Other Defendant

Officers simultaneously arrived and, together with Officer Yang, began beating Mr. Thomas without justification while Mr. Thomas was on the ground. Defendant Officers kned, punched, and kicked Mr. Thomas in his head/face and torso area. One Defendant Officer viciously slammed down onto the back of Mr. Thomas' head with his knee using his full body weight, at least twice, smashing Mr. Thomas' face directly into the cement. During the beating, Mr. Thomas did not resist or interfere with the Defendant Officers in any manner and had fully submitted/surrendered to the Officers before he was kicked to the ground. Defendant Officers then handcuffed Mr. Thomas and began searching his pockets. No weapons or contraband were found.

10. A small crowd of bystanders in the area began recording cell phone videos in an attempt to come to Mr. Thomas' aid. Mr. Thomas yelled several times that Defendant Officers had just kned him for no reason. Mr. Thomas was visibly bleeding from his nose and face area. Mr. Thomas also immediately began complaining of agonizing pain in his back.
11. Mr. Thomas suffered severe physical injuries as a result of the Defendant Officers' assault and was taken to Hennepin County Medical Center by the paramedics who were called to the scene. Mr. Thomas was released by the Defendant Officers without citation. No criminal charges were ever filed against Mr. Thomas arising from this incident.
12. As a result of Defendant Officers' unnecessary and excessive use of force, Mr. Thomas suffered the following injuries and damages: physical pain, suffering, and discomfort; a punctured lung, internal bleeding, and two fractured ribs; a laceration on his nose requiring stitches; various scratches and bruises about the body; emotional trauma, anguish, and distress; stress, fear, shame, humiliation, embarrassment, depressed mood, and diminished

quality and enjoyment of life; medical expenses associated with his injuries; and lost wages.

Mr. Thomas seeks recovery of reasonable damages in an amount greater than \$50,000.00.

### **CLAIMS FOR RELIEF**

#### **COUNT 1: 42 U.S.C. § 1983 – FOURTH AMENDMENT EXCESSIVE FORCE AGAINST ALL INDIVIDUAL DEFENDANTS**

13. Paragraphs 1 through 12 are incorporated herein by reference as though fully set forth.
14. Based on the above factual allegations, Defendant Officers Yang, Pearson, Matthews, and Davis, through their actions, acting under the color of state law, violated Plaintiff's constitutional right to remain free from use of excessive force under the Fourth Amendment to the United States Constitution.
15. As a result of these constitutional violations, Plaintiff suffered damages as aforesaid.

#### **COUNT 2: BATTERY AGAINST ALL DEFENDANTS UNDER MINNESOTA STATE LAW**

16. Paragraphs 1 through 12 are incorporated herein by reference as though fully set forth.
17. Based on the above factual allegations, the Defendants battered Plaintiff. Specifically, Officers Yang, Pearson, Matthews, and Davis engaged in intentional, offensive, and unpermitted contact with Plaintiff.
18. Defendant City of Minneapolis is vicariously liable to Plaintiff for the Defendant Officers' battery.
19. As a direct and proximate result of this battery, Plaintiff suffered damages as aforesaid.

**RELIEF REQUESTED**

**WHEREFORE, Plaintiff requests that this Court grant the following relief:**

- a. Issue an order granting Plaintiff judgment against Defendants, finding that Defendants violated Plaintiff's constitutional rights under the Fourth Amendment to the United States Constitution as well as Minnesota state law and that Defendants are liable to Plaintiff for all damages resulting from these violations;
- b. Award of compensatory damages to Plaintiff against all Defendants, jointly and severally;
- c. Award of punitive damages to Plaintiff against the Defendant Officers as to Count 1 of this Complaint pursuant to *Smith v. Wade*, 461 U.S. 30 (1983);
- d. Award of reasonable attorney's fees and costs to Plaintiff pursuant to 42 U.S.C. § 1988;
- e. Award of such other and further relief as this Court may deem appropriate.

**THE PLAINTIFF HEREBY DEMANDS A JURY TRIAL.**

THE LAW OFFICE OF ZORISLAV R. LEYDERMAN

Dated: March 8, 2019

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